

No. 24-5294

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY, et al.
Plaintiffs-Appellants,

v.

JAMES PAYNE, in his official capacity as Acting Administrator of the EPA, et al.
Defendants-Appellees.

Appeal from the United States District Court for the District of Columbia
No. 24-cv-02194-JEB (Hon. James E. Boasberg)

MOTION FOR EXTENSION OF TIME TO RESPOND TO INHANCE
TECHNOLOGIES LLC'S MOTION TO INTERVENE

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Under Federal Rule of Appellate Procedure 26(b) and Circuit Rule 27(g), Appellees respectfully move the Court for a 30-day extension of time to file their response to Inhance Technologies LLC's ("Inhance") motion for intervention. This motion is timely because it is filed more than 5 days before the response is due. D.C. Cir. R. 27(g)(1).

Appellants filed their appeal on December 26, 2024. The Court issued a case opening order deferring briefing until further order of the Court and setting a deadline of January 27, 2025 for the filing of procedural motions.

On January 24, 2025, Inhance filed both (1) a notice of appeal from the district court's final order dismissing Appellants' suit and denying as moot Inhance's request for intervention; and (2) a motion to intervene in the already pending appeal. Pursuant to Fed. R. App. P. 27(a)(3), Federal Appellees' response to Inhance's motion would be due on February 3, 2025.

An extension is requested for several reasons. Undersigned counsel, the lead appellate attorney on this case, has been out of the office since January 18, 2025, and will be on annual leave until February 3, 2025, the date the response to the motion is currently due. Further, upon her return to the office, undersigned counsel has several other pressing matters to attend to, including a brief due on February 18, 2025 in an expedited interlocutory appeal in the Ninth Circuit (*Cow Palace LLC et al. v. United States*, 9th Cir. No. 24-7749) and a brief due on March

7, 2025, where further extensions are disfavored (*Tabor v. United States*, 2d Cir. No. 24-2943). She is also lead counsel in several other matters with upcoming internal and external deadlines, including a complex Toxic Substances Control Act case in another circuit (*Food & Water Watch et al. v. EPA*, 9th Cir. No. 25-384). Undersigned counsel needs additional time to get up to speed on the underlying issues in this case while also attending to her other cases with imminent deadlines.

Additional time is also needed to bring new leadership in the Department of Justice and the Environmental Protection Agency up to speed on this case, including Inhance's motion and appeal. Given the recent change in administration, additional time is necessary for review and coordination of the government's filing.

For these reasons, Federal Appellees respectfully request that the Court grant their request for a 30-day extension of time to March 5, 2025.

Pursuant to D.C. Cir. R. 27(g)(2), Federal Appellees have consulted with counsel for Appellants and for Inhance. Counsel for Appellants takes no position on this motion. Counsel for Inhance does not oppose the requested relief. Moreover, given that the Court has not yet entered a briefing schedule, granting this motion will not result in prejudice to the other parties.

Respectfully submitted,

/s/ Michelle Melton
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January 28, 2025
90-5-1-4-22816

CERTIFICATE OF COMPLIANCE

I certify that the foregoing motion complies with Fed. R. App. P. 27(d)(2)(A) because it contains 460 words. I further certify that the motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because I prepared it using Microsoft Word in a proportionally spaced typeface, Times New Roman 14-point. *See* Fed. R. App. P. 27(d)(1)(E).

/s/ Michelle Melton

Counsel for Federal Appellees

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the Appellate Electronic Filing system on January 28, 2025. All case participants registered as CM/ECF users will be served by the CM/ECF system.

/s/ Michelle Melton

Counsel for Federal Appellees